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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/248,595	02/11/1999	BRIAN FEENEY	P-5761-SPALD	8963

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EXAMINER

ARYANPOUR, MITRA

ART UNIT PAPER NUMBER

3711

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/248,595

Applicant(s)

FEENEY ET AL.

Examiner

Mitra Aryanpour

Art Unit

3711

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: Applicant's assertions are not convincing. See continuation sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the ^{request for reconsideration} ~~proposed amendment(s)~~ a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 3.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


MITRA ARYANPOUR
PATENT EXAMINER

Art Unit: 3711

Continuation Sheet:

Page 1 of the Amendment filed 2 June 2004, states that it includes amendments to the claims. However, claim 3, the only claim remaining in the application, does not appear to contain any amendments. Note that the claim status is listed as “previously presented” and it appears that the “Amendment” only contain Remarks/Arguments and no amendments to claim 3. Therefore, the “Amendment” has been treated as a Request for Reconsideration. With regards to the Remarks on the Objection to the Drawings, Applicant’s assertion that “it is entirely unfair and inequitable for the Examiner to raise this new ground of objection in a final Office Action. Such assertions are not understood, since the objection to the drawings was raised in Paper No. 28 dated 12 June 2003. With regards to Applicant’s assertion that the objection is without merit. Again applicant’s assertion is not understood, 37 CFR 1.83(a) requires that the drawings must show every feature of the invention specified in the claims. The claimed game ball is a game ball having a cover and a lining. This particular combination results in the claimed results. Therefore, this combination must be shown.

Applicant’s assertion with regards to “the Examiner is demanding a scientific explanation as to how the increased water resistant properties are achieved” is not understood, since no “scientific explanation” has been requested. As Applicant has demonstrated, not all game balls possess the claimed water resistant properties as the inventive game ball. Therefore, for a clear understanding of the invention, it is necessary to know the particulars of the structure and process that makes up the inventive game ball. As indicated in the previous Office Action, the specification as originally filed does not provide the requisite written description for the claimed property. Applicant has merely referred to several suitable leathers, which are commercially available, but has failed to disclose what process has been used to produce the “increase water resistant properties” in the natural leather? Again, Applicant has failed to sufficiently disclose how the increased water resistant properties for a natural leather cover has been achieved during the alleged tanning process for the full range of weight ratios which is critical or essential to the practice of the invention. Therefore, it is unclear how the unexpected results have been reached, since it appears that the tanning imparted on the leather yields to these unexpected results.



MITRA ARYANPOUR
PATENT EXAMINER